

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT
OF PENNSYLVANIA

* * * * *

RICHARD JEWELL, *
et al., *
Plaintiffs * Case No.
vs. * C.A. 97 408 Erie
ALBERT O. GONZALEZ, *
et al., *
Defendants *

* * * * *

DEPOSITION OF
DENNIS FLATT
April 21, 2005

Richard Jewell



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DEPOSITION

OF

DENNIS FLATT, taken on behalf of the
Plaintiffs herein, pursuant to the
Rules of Civil Procedure, taken
before me, the undersigned, Tamara Y.
Doxey, a Court Reporter and Notary
Public in and for the Commonwealth of
Pennsylvania, at the Federal
Correctional Institution of McKean,
Lewis Run Road, Bradford,
Pennsylvania, on Thursday, April 21,
2005, beginning at 8:25 a.m.

A P P E A R A N C E S

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I N D E X

WITNESS: DENNIS FLATT

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P R O C E E D I N G S

DENNIS FLATT, HAVING FIRST BEEN DULY
SWORN, TESTIFIED AS FOLLOWS:

EXAMINATION

BY ATTORNEY KRAKOFF:

Q. Mr. Flatt, I'm here today to ask you some questions that relate to --- primarily to the inmate --- what I call the inmate film viewing program. If you don't understand a question that I pose to you, please tell me that and I'll rephrase it until you're satisfied that you understand the question. If you don't hear a question, similarly, let me know that you didn't hear it and I'll repeat it. Allow me to finish my question, even if you anticipate how it's going to end, so that the court reporter can take my entire question down. And I'll attempt to do the same when you're answering, refrain from interrupting you. If

1 you want to take a break at some
2 point, just let me know and we can
3 break. What is your name?

4 A. Dennis Flatt.

5 Q. And are you the Supervisor of
6 Recreation at FCI-McKean?

7 A. No. I'm the Supervisor of
8 Education.

9 Q. Okay. Let me refer you to
10 Plaintiff's Exhibit Two, which would
11 be the second exhibit on the file,
12 and return --- and I'll identify what
13 this document is for the record.
14 These are Defendants' responses to
15 Plaintiffs' first set of
16 Interrogatories and Request for
17 Production of Documents. And what
18 that is is simply that I put a number
19 of questions to the Defendants, which
20 are called Interrogatories, they
21 answer them, and I also requested
22 certain documents from the
23 Defendants, which they responded to
24 in hearing and produced.

25 If you look at the second

1 question, which is on page 2 of the
2 Interrogatories, it asks, quote,
3 state the name and position of the
4 FCI-McKean official who determines
5 which movies will be leased for
6 showing at the inmate film program
7 that is the subject of this lawsuit.
8 Response, Dennis J. Flatt, Supervisor
9 of Recreation. Were you Supervisor
10 of Recreation when this was answered
11 in 1999, May of 1999? Was that your
12 position at the time, or was this
13 just a mistake?

14 A. That was my position at the
15 time.

16 Q. Okay. How long had you been
17 Supervisor of Recreation, beginning
18 when and ending when?

19 A. I believe it was '91.

20 Q. Do you remember what month?

21 A. I think it was May. I'm not
22 100 percent sure, though.

23 Q. You think it was in the
24 spring, though, of 1991?

25 A. Yes.

1 Q. Okay. And when did you assume
2 your current position as Supervisor
3 of Recreation?

4 A. December 2004.

5 Q. Were you Supervisor of
6 Recreation until December of 2000 ---
7 did I say recreation? Were you ---?

8 ATTORNEY EDNEY:

9 I think 2004 he became
10 education.

11 ATTORNEY KRAKOFF:

12 I understand that.

13 BY ATTORNEY KRAKOFF:

14 Q. Immediately prior to the time
15 that you became the Supervisor of
16 Education, what was your position?

17 A. I was still Supervisor of
18 Recreation.

19 Q. So you were Supervisor of
20 Recreation from approximately May of
21 1991 through November of 2004; is
22 that right?

23 A. That's correct.

24 Q. When did you first begin to
25 work at the Federal Correctional

1 Institution at McKean?

2 A. September 1989.

3 Q. What was your position at that
4 time?

5 A. Recreation specialist.

6 Q. Is recreation a department
7 within FCI-McKean? Is it called a
8 department?

9 A. Recreation is a component of
10 education.

11 Q. Okay. What name is given to
12 it, division, agency, department? Is
13 there a name that's used?

14 A. It's the recreation
15 department.

16 Q. Okay. What were your
17 functions and responsibilities while
18 you were recreation specialist?

19 A. Coordinating inmate events,
20 such as sporting events, hobbycrafts.

21 Q. Movies?

22 A. Movies, tournaments.

23 Q. Anything else?

24 A. The music program, unit
25 activities.

1 Q. That means activities on the
2 housing units?

3 A. Uh-huh (yes).

4 Q. You have to say yes or no.

5 A. Yes.

6 Q. Okay. Can you think of
7 anything else?

8 A. At this time, no.

9 Q. How long did you hold the
10 position as recreation specialist?

11 A. Roughly about ten months.

12 Q. And then what position did you
13 go to?

14 A. Assistant Supervisor of
15 Recreation.

16 Q. Were you involved in the
17 various areas that you just
18 identified you had been involved in
19 as a recreation specialist?

20 A. Yes, on a supervisory level.

21 Q. Who was the Supervisor of
22 Recreation at the time you became a
23 recreation specialist?

24 A. Kenneth Jones.

25 Q. And was Mr. Jones the

1 Supervisor of the Recreation
2 department when you became the
3 assistant supervisor?

4 A. Yes.

5 Q. Okay. And did you hold the
6 position of Assistant Supervisor of
7 Recreation until you became the
8 supervisor in 1991?

9 A. Yes.

10 Q. What training or background
11 did you have prior to coming to work
12 here? And that could include college
13 or on-the-job training.

14 A. I have a Bachelor's Degree in
15 Recreation.

16 Q. From where?

17 A. Slippery Rock University.

18 Q. Had you worked at any other
19 penal facility prior to coming to
20 FCI-McKean?

21 A. No. Law enforcement. I was a
22 state law enforcement officer in
23 Florida.

24 Q. Where?

25 A. In Florida.

1 Q. Is that --- were you a police
2 officer?

3 A. Uh-huh (yes). Yes.

4 Q. When you began to work at the
5 prison in September of 1989 as a
6 recreational specialist, was that
7 when the prison opened, or did you
8 come after the prison had opened?

9 A. When it opened.

10 Q. Okay. And so you've worked at
11 FCI-McKean throughout the time period
12 that McKean has been open; is that
13 correct?

14 A. Yes.

15 Q. Now, how many persons are
16 employed, at the present time --- how
17 many positions are there, whether
18 they're filled or unfilled --- how
19 many positions are there in the
20 recreation department; do you know?

21 A. I believe it's seven.

22 Q. Are they all filled at this
23 time, to your knowledge?

24 A. Seven are filled. There's one
25 vacancy.

1 Q. And does that include these
2 supervisory positions that you
3 identified?

4 A. One supervisory position. The
5 rest are recreation specialists.

6 Q. Okay. And in 1989, when you
7 began to work in the recreation
8 department, how many positions were
9 there?

10 A. I don't recall.

11 Q. There was a director; correct?

12 A. Director of prisons?

13 Q. No, no. A director of the ---

14 A. Recreation Supervisor.

15 Q. --- recreation?

16 A. Yes.

17 Q. The Supervisor of Recreation,
18 was that Jones at the time?

19 A. Yes.

20 Q. Was there an Assistant
21 Supervisor of Recreation when you
22 began to work ---?

23 A. Not in '89, no.

24 Q. Okay. Were there --- you were
25 a recreation specialist; correct?

1 A. Yes.

2 Q. Was there any other recreation
3 specialists at that time?

4 A. Yes. Yes.

5 Q. More than two?

6 A. Yes.

7 Q. More than five?

8 A. In '89, I believe there was
9 three or four people that we detailed
10 to recreation, correction officers.
11 After '89, there was five to six.

12 Q. Okay. Now, are the recreation
13 specialists, at this point, uniformed
14 officers, or are they civilians?

15 A. They're full-time ---

16 Q. No. I mean ---.

17 A. --- staff members.

18 Q. Does that mean that they're
19 officers?

20 A. Everyone's an officer, yes.
21 They're recreation specialists that
22 work in the recreation department.
23 We don't just detail correction
24 officers. They're trained recreation
25 specialists that have a background

1 for that.

2 Q. But they're also considered
3 what used to be referred to as guards
4 or corrections officers; is that what
5 your testimony is?

6 A. No. All staff have an area of
7 expertise. Recreation specialists,
8 that's where they work in recreation.
9 A correction officer usually works
10 the housing unit or post. My staff
11 can work --- recreation staff can
12 work at a post, but they're assigned
13 to the recreation department.

14 Q. So it's not a security
15 position as such; correct?

16 A. Yes.

17 Q. I am right?

18 A. Yes.

19 Q. Are you familiar with the
20 Zimmer Amendment?

21 A. Yes.

22 Q. Do you recall the Zimmer
23 Amendment went into effect in the
24 federal prison system in
25 approximately the early part of 1996?

1 A. Yes.

2 Q. And at that time, do you
3 recall how many persons were --- I
4 think you used the word detailed ---
5 to the recreation department?

6 A. In '96, nobody was detailed.
7 By then, we opened up --- '89/'90 we
8 were just hiring recreation
9 specialists. In '96 --- actually, in
10 '90, we already had all our rec specs
11 on line. So '96, at that time, there
12 was probably six to seven recreation
13 specialists.

14 Q. And was there also an
15 assistant supervisor?

16 A. Yes.

17 Q. And also a supervisor?

18 A. Yes.

19 Q. So there would have been a
20 total of how many when Zimmer came
21 into effect?

22 A. Eight. Eight to ten.

23 Q. Now, did they all work on a
24 particular shift, or did they overlap
25 on shifts?

1 A. Overlap.

2 Q. What shifts were the
3 recreation employees assigned to?

4 A. There was three different
5 shifts that were rotated.

6 Q. Tell me what the shift hours
7 were.

8 A. 9:00 to 6:00, I believe 6:00
9 to 2:30, 7:30 to 4:00, 12:30 to 9:00.

10 Q. The 6:00 was 6:00 a.m. to
11 12:30 in the afternoon?

12 A. 6:00 to 2:30 p.m., yeah. 6:00
13 a.m.

14 Q. To 2:30 in the afternoon?

15 A. Yes.

16 Q. And then 7:30 in the evening
17 until ---

18 A. 4:00 p.m.

19 Q. --- 4 p.?

20 A. 7:30 a.m.

21 Q. So there was overlapping --- I
22 see. There was some overlapping
23 on --- is that the first shift?

24 A. Yeah. Recreation is open from
25 6:00 a.m. to 8:45 at night.

1 Q. Okay. I'm going to be asking
2 you in more detail about the movies.

3 A. Okay.

4 Q. Immediately prior to Zimmer
5 coming into effect, were movies being
6 shown as part of the ongoing
7 recreation activities that your
8 department was providing to McKean
9 prisoners?

10 A. Yes.

11 Q. And was there any particular
12 time period within which the movies
13 were shown?

14 ATTORNEY EDNEY:

15 Are you asking a time
16 frame?

17 ATTORNEY KRAKOFF:

18 Yes. I'm trying to
19 determine whether the movies
20 were shown in the afternoon,
21 whether they were shown in the
22 evening, whether they were
23 shown in the morning.

24 BY ATTORNEY KRAKOFF:

25 Q. Was there a particular time of

1 the day when movies were usually
2 shown?

3 A. Most of the time, they were
4 shown in the evening hours.

5 Q. Okay. Roughly what time?

6 A. From five o'clock on Friday to
7 roughly noon on Sunday. Back in '96,
8 we also showed them --- I don't
9 recall if we showed them during the
10 weekday or not. We did at a time,
11 then we cut that back.

12 Q. There would be continuous
13 movies from five o'clock on Friday
14 until noon on Sunday?

15 A. Yes.

16 Q. How many movies --- are we
17 talking about the same movie being
18 replayed during that time period, or
19 different movies?

20 A. We've gone through a series of
21 adjustments as far as the movies go.
22 Currently we show two movies on a
23 weekend. In the early '90s, we
24 showed sometimes, you know, one or
25 two movies during the week and up to

1 five or six on the weekends. I don't
2 recall in '95 or '96 whether we were
3 showing two on weekends or if we were
4 showing four to six. I don't --- I'd
5 have to check my records.

6 Q. But you think at the time of
7 Zimmer that it was mostly on
8 weekends, Friday night until noon on
9 Sunday that movies were being shown?

10 A. I believe. I can check the
11 logs if you ---.

12 Q. Why don't you, if you have
13 them. I don't know that I have logs.

14 A. What was the date you asked
15 me?

16 Q. I was trying to determine, say
17 during the period of 1995, the
18 year --- you know, throughout the
19 12-month period leading up to Zimmer,
20 I was trying to get a sense of when
21 movies were shown and how many movies
22 were being shown.

23 A. In November of '95, we showed
24 two movies on weekends.

25 Q. Okay.

1 A. And it's been that since that
2 time period. It's been two movies a
3 weekend.

4 Q. You said November of 1995?

5 A. Yes.

6 Q. Will you identify, by exhibit
7 number, what you were referring to?

8 A. Ten (a).

9 Q. And is that a log?

10 A. Yes.

11 Q. This particular log, some of
12 it --- at least the first page has
13 handwriting. Much of it seems to be
14 typed. Do you know whose handwriting
15 is on the first page?

16 A. No, I don't.

17 Q. Do you know who was
18 responsible for preparing the various
19 pages in this log?

20 A. No, I don't. That
21 responsibility would rotate amongst
22 the recreation specialists.

23 Q. Would the log be sent to you?
24 Would you be furnished the log, or
25 was that log in your office? Was

1 that log accessible to you? Why
2 don't you tell me ---.

3 A. Yes.

4 Q. Okay. There was one log that
5 was maintained?

6 A. There was a --- you're talking
7 about basically two different logs.
8 This is a log here. This is out of a
9 book. This is a typewritten --- that
10 I typed --- schedule, furnished to
11 inmate population.

12 Q. So the first page is something
13 that would have been in a log book?

14 A. Yes.

15 Q. Beginning with the second page
16 on through which is typed, these are
17 copies of documents --- I guess
18 memos, they're called, that were sent
19 into the inmate population?

20 A. Yes.

21 Q. They were posted?

22 A. On bulletin boards, yes.

23 Q. Okay. And if I were to look
24 at this log, I could determine at
25 least --- strike that.

1 If I were to look at these
2 memoranda, these would reflect the
3 days that movies were shown, the
4 times that movies were shown to the
5 inmate population, and the names of
6 the movies that were shown to the
7 prisoners; is that correct?

8 A. That's correct.

9 Q. Okay. While we're on this
10 document, if you can --- if you look
11 at the previous document, which is
12 marked Plaintiffs' Exhibit Ten, if
13 you look through this, ---

14 A. Okay.

15 Q. --- does this document consist
16 of pages from the log book?

17 A. Yes.

18 Q. Okay. And this document
19 reflects the names of movies that
20 were shown to the population on given
21 dates, and it doesn't --- this one
22 does not reflect the times that they
23 were shown, though; is that correct?

24 A. That's correct.

25 Q. And the log pages that are

1 reflected in Plaintiffs' Exhibit Ten,
2 would they have been prepared on a
3 contemporaneous basis, meaning at the
4 time on the day that the movies were
5 shown or within a day or two, or is
6 this something that was prepared, say
7 once a month or once a year?

8 A. No. Usually they were done
9 within a week of when the movies are
10 going to be shown.

11 Q. Okay. The first page, for
12 example, Plaintiffs' Exhibit Ten,
13 would this have been filled out
14 before the movies were actually
15 shown?

16 A. Yes.

17 Q. And if the movie wasn't
18 actually shown, would that have been
19 reflected in the log? Would it have
20 been crossed out or something, if the
21 movie wasn't actually shown?

22 A. It should have been. If the
23 supplier was unable to provide us
24 with that movie, we'd have to make
25 compliments.

1 Q. Okay. Now, looking at
2 Plaintiffs' Exhibit Ten, you'll see
3 that this begins in November of 1992.
4 Were logs maintained that reflected
5 the movie titles and the dates that
6 the movies were going to be shown
7 back in 1989 and 1990 and 1991? Is
8 this something that had been
9 done ---?

10 A. This log here?

11 Q. The same type of ---.

12 A. Yes. Yes.

13 Q. Okay. And the same thing with
14 respect to the memoranda that are
15 contained in Plaintiffs' Exhibit Ten

16 A. Would memos be sent into the
17 inmate population generally, tacked
18 on the bulletin boards, back in, say
19 1990 through 1995? Was that also the
20 practice?

21 A. Yes.

22 Q. Now, the recreation
23 specialists, those were people who
24 had specific training in the
25 recreational area; is that correct?

1 A. That's correct.

2 Q. Were they people who had
3 college degrees in recreation?

4 A. Some had college, others had
5 recreation experience which equated
6 to a college education.

7 Q. Now, during the time period
8 that you were Supervisor of
9 Recreation, were X-rated movies
10 categorically prohibited, meaning as
11 a category, ---

12 A. Yes.

13 Q. --- under BOP policy?

14 A. Yes.

15 Q. Okay. So personnel at McKean
16 had no discretion with respect to
17 X-rated movies? Those were
18 absolutely prohibited; correct?

19 A. That's correct.

20 Q. And isn't it also true that
21 the Warden at FCI-McKean
22 categorically prohibited NC-17 movies
23 from being shown at the prison, even
24 prior to the Zimmer Amendment?

25 ATTORNEY EDNEY:

1 He's not the Warden, so
2 only what he knows.

3 ATTORNEY KRAKOFF:

4 I know. Obviously.

5 ATTORNEY EDNEY:

6 Well, you asked if the
7 Warden. Only if you know.

8 A. I don't recall.

9 BY ATTORNEY KRAKOFF:

10 Q. Do you have a recollection of
11 an NC-17 movie being shown at the
12 prison during the time that you were
13 the Supervisor of Recreation?

14 A. I do not.

15 Q. Now, let me show you --- I
16 refer you to Plaintiffs' Exhibit 11,
17 which is an institution supplement
18 dated May 15, 1990. The subject is
19 Inmate Recreation Programs. Are you
20 familiar with this kind of document?

21 A. Yes.

22 Q. What is your understanding of
23 the purpose of an institution
24 supplement?

25 A. To give direction on the

1 implication of programs.

2 Q. Is that necessarily direction
3 pursuant to a BOP policy coming out
4 of Washington, or could it also apply
5 to direction on something --- a
6 policy adopted at FCI-McKean? Could
7 it be either?

8 A. The policy is from the BOP.
9 This just gives further direction.

10 Q. Okay. If you turn to the
11 third page of this document, you'll
12 see in item 8, with respect to
13 movies, this reflects that as of May
14 15, 1990, that X-rated movies were
15 not permitted at FCI-McKean; correct?

16 A. Correct.

17 Q. Now, turn to the next exhibit,
18 which is 12. This is an institution
19 supplement dated July 26, 1991. And
20 if you turn to the eighth item, which
21 relates to movies, this reflects that
22 as of that time, not only X-rated,
23 but also NC-17 were not allowed to be
24 shown as a category inside
25 FCI-McKean; isn't that true?

1 A. That's true.

2 Q. Okay. And you'll see on the
3 last page of this exhibit, it seems
4 to say, Craig Hahn, I believe. Can
5 you recognize that signature?

6 A. Yes.

7 Q. And what does it say?

8 A. Craig Apkei.

9 Q. Apkei. Okay. There's a
10 Warden Hahn; is that correct? There
11 was a Warden Hahn?

12 A. There was a Warden Hahn, yes.

13 Q. Would you spell his last name?

14 A. A-P-K-E-I.

15 Q. And this indicates that he
16 signed this institution supplement on
17 behalf of Warden Luther; correct?

18 A. Correct.

19 Q. What was his position in the
20 institution at that time?

21 A. Assistant Warden.

22 Q. Does that refresh your
23 recollection that NC-17 movies,
24 during the time that you were the
25 Supervisor of Recreation, were not

1 shown under the local, meaning
2 FCI-McKean, policy?

3 A. Yes. But I would like to see
4 the operations memorandum from that
5 time.

6 Q. By the operations
7 memorandum ---?

8 A. Program statement. I stand
9 corrected

10 Q. For what?

11 A. Program statement.

12 Q. We have --- and you can look
13 over Plaintiffs' Exhibit Three and
14 Plaintiffs' Exhibit Four --- one
15 which is dated October 27, 1986 and
16 Exhibit Four is December 16, 1993.
17 And I can represent to you that we've
18 had deposition testimony in this case
19 that the program statement that was
20 in effect between October 27, 1986
21 and December 16, 1993 was the 1986
22 program statement. Do you have a
23 recollection either way, whether
24 there was another ---?

25 A. No, I don't.

1 Q. Do you want to review the
2 statement to see the 1986 statement
3 for some reason?

4 A. What number is that?

5 Q. That's Exhibit Three.

6 ATTORNEY EDNEY:

7 I'm not really sure
8 where your questioning is
9 going here, but these
10 documents speak for
11 themselves.

12 ATTORNEY KRAKOFF:

13 It's not going
14 anywhere.

15 ATTORNEY EDNEY:

16 All right.

17 ATTORNEY KRAKOFF:

18 The witness had said he
19 wanted to look at
20 programs ---.

21 ATTORNEY EDNEY:

22 But I mean, you were
23 asking if the policy was what
24 it was, and I'm just saying,
25 for the record, the document

1 speaks for itself. If it says
2 that's what the policy was,
3 that's what the policy was.

4 ATTORNEY KRAKOFF:

5 Right. I understand
6 that. But I'm asking him now
7 about the practice.

8 ATTORNEY EDNEY:

9 Okay.

10 BY ATTORNEY KRAKOFF:

11 Q. During the time that you were
12 the Recreation Specialist Supervisor
13 --- I think I fumbled that name.

14 During the period of time that you
15 were the Recreation Supervisor, as a
16 matter of practice, do you recall an
17 NC-17 movie ever being shown as part
18 of the inmate film viewing program?

19 A. I do not recall.

20 Q. Do you feel comfortable that
21 an NC-17 movie was not shown during
22 the time period from the time you
23 became the Supervisor of Recreation
24 until the enactment of Zimmer?

25 A. I can't comment. I don't

1 know. I do not recall whether one
2 was shown or not.

3 Q. Now, back to Plaintiffs'
4 Exhibit Ten, which was the log, this
5 log, this reflects the title, it
6 reflects the date that a particular
7 film was supposed to be shown. This
8 doesn't reflect, does it, what the
9 rating of the respective films were;
10 is that correct?

11 A. That's correct.

12 Q. Did you maintain, meaning you
13 personally or those under your
14 supervision, during the time period
15 that you were the supervisor of the
16 recreation department, any sort of a
17 list that reflected the rating of the
18 various movies that were shown prior
19 to Zimmer?

20 A. A list? No.

21 Q. Okay. Why don't you describe
22 how films were ordered from the
23 prison (sic)? Describe the process,
24 who you were dealing with and how you
25 made arrangements for obtaining films

1 to show in a context of the inmate
2 movie program.

3 ATTORNEY EDNEY:

4 Is this pre-Zimmer or
5 post-Zimmer?

6 BY ATTORNEY KRAKOFF:

7 Q. All of my questions, unless I
8 say otherwise, sir, are pre-Zimmer.

9 ATTORNEY EDNEY:

10 So before January of
11 '96.

12 A. We have catalogues which
13 reflect ---.

14 BY ATTORNEY KRAKOFF:

15 Q. You say we have. You mean you
16 had? We're talking about pre-Zimmer.

17 A. We still have them.

18 Q. Okay. Go ahead.

19 A. The books reflect that, the
20 movie titles and the ratings. Once a
21 decision is made we want to show that
22 movie, we contact the local vendor
23 and see whether that movie is
24 available or not. We check the
25 rating from the vendor. And then

1 once we secure that, the movies were
2 picked up and they were shown to the
3 inmate population.

4 Q. Okay. Why did you check the
5 rating with the vendor if the
6 catalogue itself indicated a rating?
7 Was that just to be absolutely sure
8 that it wasn't either X or NC-17?

9 A. Certain movies have two or
10 three different ratings. It's
11 possible to have an NC movie, an
12 R-rated movie and a PG movie of the
13 same movie.

14 Q. Okay. Now, who was the vendor
15 or who were the vendors from the time
16 you became the supervisor in 1991
17 through the time period leading up to
18 and ending with the enactment of
19 Zimmer?

20 A. Movie World.

21 Q. And where is Movie World
22 located?

23 A. Bradford, Pennsylvania.

24 Q. Do you know its address?

25 A. No, I don't.

1 Q. Okay.

2 A. And there's also a store in
3 Kane, Pennsylvania, which I do not
4 recall. I do not recall the name of
5 that establishment.

6 Q. You no longer deal with the
7 Kane store?

8 A. No.

9 Q. What about Movie World?

10 A. Yes, we do.

11 Q. The catalogue that you're
12 referring to, were these catalogues
13 that were published by Movie World
14 and/or by the distributor in Kane, or
15 were these catalogues published by
16 some other source?

17 A. Both.

18 Q. So you had catalogues
19 reflecting the movies that were
20 available from Movie World, a
21 catalogue that reflected what movies
22 were available at the store in Kane,
23 and you had some other catalogue or
24 catalogues reflecting titles; is that
25 correct?

1 A. There's no catalogue from the
2 Kane store.

3 Q. Okay. Movie World had a
4 catalogue that reflected the titles
5 as well as the ratings?

6 A. I don't recall. It's not
7 actually a catalogue. It's just
8 a ---.

9 Q. Printout?

10 A. It's just an upcoming
11 attraction-type thing.

12 Q. For newer movies?

13 A. Newer movies, yes.

14 Q. Did you any sort of a
15 catalogue that you utilized that had
16 a broad listing, a lot of listings of
17 movies that were not necessarily new,
18 that could have been several years
19 old?

20 A. Yes. We had a catalogue we
21 used as a reference, not all the
22 time, but it was used from time to
23 time.

24 Q. Okay. And who produced that
25 catalogue?

1 A. I believe it was Films,
2 Incorporated.

3 Q. Do you remember where Films,
4 Incorporated was from?

5 A. They're based out of Chicago.

6 Q. Do you still receive that
7 catalogue?

8 A. I believe they do.

9 Q. Were you receiving that
10 catalogue between 1991 and Zimmer in
11 January of '96?

12 A. I believe so.

13 Q. And is that a catalogue that
14 was updated periodically?

15 A. I believe yearly.

16 Q. Yearly. Was that catalogue
17 that we're talking about, the one out
18 of Chicago, Films, Incorporated ---
19 was that catalogue something that was
20 received in the recreation department
21 prior to you becoming the supervisor?

22 A. I do not recall.

23 Q. Do you have any of those ---
24 still have any --- strike that.

25 At the time you left your

1 position as the supervisor of the
2 recreation department, were the
3 catalogues for the various years
4 between 1991 through 1995 --- were
5 they still somewhere in the custody
6 of the department?

7 A. No.

8 Q. Do you know what happened to
9 those catalogues?

10 A. I believe they were thrown
11 away, outdated.

12 Q. Okay. What about any of the
13 post-Zimmer catalogues, those for the
14 years 1996 up to the present? Do you
15 know whether any of those catalogues
16 still exist from the Chicago Films,
17 Incorporated outlet?

18 A. I believe 2005 is up there.
19 The other ones have been thrown away.

20 Q. Did the Films, Incorporated
21 catalogue describe --- give a summary
22 or a synopsis of what the respected
23 films were about?

24 A. Some of the movies, yes; some
25 of the movies, no.

1 Q. Most of the movies, or just a
2 few of the movies, it would summarize
3 them?

4 A. A few of them.

5 Q. Now, looking at Plaintiffs'
6 Exhibit Ten, which begins --- is the
7 log of movies that begins in November
8 of 1992, do you recognize any of the
9 pages as being in your handwriting or
10 your printing?

11 (Plaintiffs' Exhibit
12 Ten marked for
13 identification.)

14 A. I believe at the bottom, April
15 '93.

16 BY ATTORNEY KRAKOFF:

17 Q. Would that have been --- is
18 that the page that begins with
19 Caddyshack?

20 A. Yes.

21 Q. Okay.

22 A. It looks like May, the
23 following --- I believe it's the next
24 page.

25 Q. May of '93?